

May 3, 2006 BZA



REQUEST ANALYSIS
AND
RECOMMENDATION

06AN0260

Darrin and Kelly Turner

Clover Hill Magisterial District
10751 Timberun Road

REQUEST: A two (2) foot Variance to the four (4) foot fence height limitation in the corner side yard in a Residential (R-9) District.

RECOMMENDATION

Recommend denial of this request for the following reasons:

- A. As required by the Zoning Ordinance, there are no conditions upon which the request is based that are unique to the property and are not applicable generally to other properties in the area.
- B. The applicant has provided no information that there are such unusual circumstances about this property that adherence to the required fence height limitation would cause undue hardship.

GENERAL INFORMATION

Location:

Property is known as 10751 Timberun Road. Tax ID 746-679-1126 (Sheet 16).

Existing Zoning:

R-9

Size:

0.28 acre

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - R-9; Residential

South - R-9; Residential

East - R-9; Residential

West - R-9; Residential

Utilities:

Public water and sewer

General Plan:

(Central Area Land Use and Transportation Plan)

Residential
(1.0 – 2.5 units per acre)

DISCUSSION

The applicants have indicated there is a six (6) foot tall fence in the corner side yard. The Zoning Ordinance limits fence heights to four (4) feet in the corner side yard of a lot located in a Residential (R-9) District. Therefore, the applicants request a two (2) foot Variance.

The applicants provide the following justification in support of this request:

The purpose of this request is to keep the portion of fence in question remaining intact. The fence is intended for the sole purpose of maintaining privacy. We are requesting that the fence be allowed to remain in its current location and height.

The fence at its current location was erected over a year ago. This has never in the past proven to be an issue or source of complaint with any neighbors, school busses or traffic until now. The location is such that it presents no obstruction to the intersection for traffic in any direction. We have pictures of the intersection, which will prove this. In addition, every precaution has been taken to ensure that this fence is on the intended property and does not encroach on any neighboring property lines or obstruct any local or state owned utilities.

Prior to erecting the fence, the understanding we had was that it could not be higher than seven (7) feet. Unfortunately, not until now did we find the exception for “corner lots”

stating that it could only be four (4) feet at certain sections. This fence was certainly not constructed with any intention to ignore the regulation. Simply through the lack of knowledge it was done unintentionally. This was a costly project to construct and will be even more costly to have to remove and replace which would create a financial hardship on our family. We, like many, have a family with children and want to ensure their safety and privacy as like anyone else. We have followed every other ordinance and complied with surveyors to ensure that this would not be in the way as well as considered any possible traffic obstruction. None of these are issues. Please consider that the height restriction, on "corner lots" regulation, was simply an oversight that was not known to us until after the fence was erected.

The Planning Department staff visited the site in response to a complaint. Staff's inspection revealed that the applicants were in violation of the Zoning Ordinance by erecting a fence six (6) feet in height in the corner side yard. This request is in response to staff's investigation.

Staff visited the property and observed a six (6) foot wooden privacy fence in the corner side yard at 10751 Timberun Road in the Great Oaks Subdivision. There are bushes and trees in front of the privacy fence in the front yard. Staff also observed three (3) other corner lots at the same intersection with approximately three (3) foot picket fences in the corner side yards.

Although the fence does not create a site distance issue for traffic, it does unreasonably restrict the free flow of light and air. It creates a closed-in appearance to the neighborhood. Appropriate subdivision design dictates open flow along the roads. A two (2) foot reduction in the fence height would accomplish that free flow and open up the road corridor.

The applicants have not provided any information, as required by the Zoning Ordinance, which would serve as a basis for the granting of this Variance. Staff believes that this request does not meet the test for Variances as specified in Section 19-21 (b) of the Chesterfield County Zoning Ordinance.

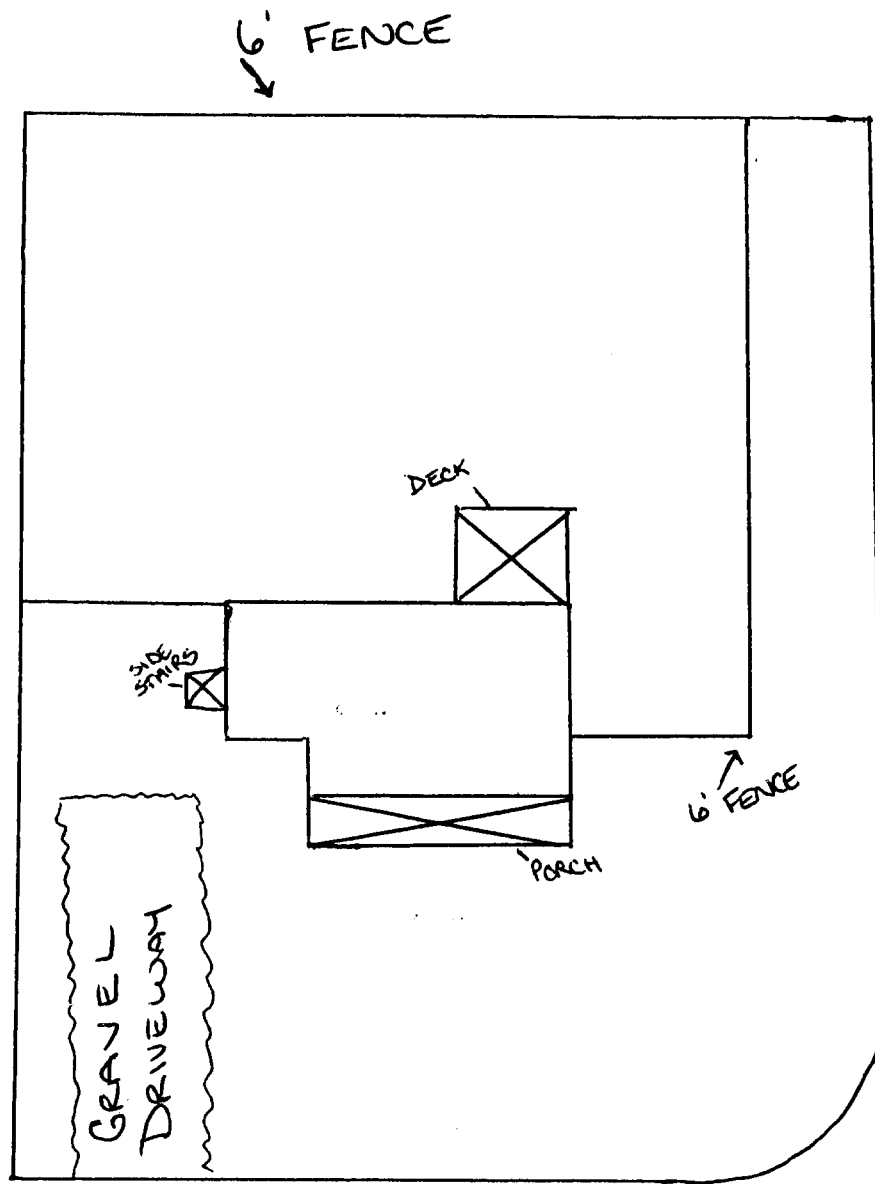
Staff finds no conditions upon which this request is based which are unique to the subject property and do not apply generally to other properties in the immediate area. Therefore, staff cannot support this Variance request.

Staff believes that there are several alternatives that exist that would eliminate the need for this Variance. If the height of the fence were reduced to four (4) feet, it would comply with the Zoning Ordinance. Also, the six (6) foot fence could be located totally in the rear yard. In order to accomplish this, the fence could be moved to the right rear corner of the dwelling and extend on a direct perpendicular line to the rear property line.

However, if the Board feels that this request has merit, staff recommends that the request be subject to the following condition:

CONDITION

This Variance shall be for the existing fence only and no other additional fence shall be added.



TIMBERUN ROAD

RIDGERUN ROAD